

SENATE BILL 1073

C5

(2lr3313)

ENROLLED BILL

— Finance/Economic Matters —

Introduced by **Senator Middleton**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Electricity – ~~Certificate of Public Convenience and Necessity~~ – Construction**
3 **of Overhead Transmission Lines and Wind Generating Stations**

4 FOR the purpose of authorizing the Public Service Commission to waive the
5 requirement for an electric company to obtain a certificate of public convenience
6 and necessity under certain circumstances for good cause; requiring the
7 Commission to waive the requirement to obtain a certificate of public
8 convenience and necessity for construction related to an existing overhead
9 transmission line designed to carry a certain amount of voltage under certain
10 circumstances; authorizing an electric company to undertake construction
11 related to an existing overhead transmission line that is necessary to avoid an
12 imminent safety hazard or reliability risk under certain circumstances;
13 requiring an electric company to file a certain report with the Commission
14 within a certain period of time under certain circumstances; providing that a
15 certain provision that requires a person to obtain certain approval from the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Commission before constructing a certain generating station does not apply to a
 2 person constructing a certain wind generating station that has wind turbines
 3 within a certain distance from the Patuxent River Naval Air Station, as
 4 determined by certain regulation; and generally relating to ~~certificates of public~~
 5 ~~convenience and necessity for~~ the construction of overhead electric transmission
 6 lines and certain wind generating stations.

7 BY repealing and reenacting, without amendments,
 8 Article – Public Utilities
 9 Section 7–207(a)
 10 Annotated Code of Maryland
 11 (2010 Replacement Volume and 2011 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article – Public Utilities
 14 Section 7–207(b) and 7–207.1(a)
 15 Annotated Code of Maryland
 16 (2010 Replacement Volume and 2011 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Public Utilities**

20 7–207.

21 (a) (1) (i) In this section and § 7–208 of this subtitle, “construction”
 22 means:

23 1. any physical change at a site, including fabrication,
 24 erection, installation, or demolition; or

25 2. the entry into a binding agreement or contractual
 26 obligation to purchase equipment exclusively for use in construction in the State or to
 27 undertake a program of actual construction in the State which cannot be canceled or
 28 modified without substantial loss to the owner or operator of the proposed generating
 29 station.

30 (ii) “Construction” does not include a change that is needed for
 31 the temporary use of a site or route for nonutility purposes or for use in securing
 32 geological data, including any boring that is necessary to ascertain foundation
 33 conditions.

34 (2) In this section, “qualified generator lead line” means an overhead
 35 transmission line that is designed to carry a voltage in excess of 69,000 volts and
 36 would allow an out-of-state Tier 1 or Tier 2 renewable source to interconnect with a
 37 portion of the electric system in Maryland that is owned by an electric company.

1 (b) (1) (i) Unless a certificate of public convenience and necessity for
2 the construction is first obtained from the Commission, a person may not begin
3 construction in the State of:

4 1. a generating station; or

5 2. a qualified generator lead line.

6 (ii) If a person obtains Commission approval for construction
7 under § 7-207.1 of this subtitle, the Commission shall exempt a person from the
8 requirement to obtain a certificate of public convenience and necessity under this
9 section.

10 (iii) Notwithstanding subparagraph (i) of this paragraph, a
11 person may not apply to obtain a certificate of public convenience and necessity for
12 construction of a qualified generator lead line unless:

13 1. at least 90 days before the filing of an application for
14 a certificate of public convenience and necessity, the person had in good faith offered
15 the electric company that owns that portion of the electric grid in Maryland to which
16 the qualified generator lead line would interconnect a full and fair opportunity for the
17 electric company to construct the qualified generator lead line; and

18 2. at any time at least 10 days before the filing of an
19 application for a certificate of public convenience and necessity, the electric company:

20 A. did not accept from the person a proposal or a
21 negotiated version of the proposal under which the electric company would construct
22 the qualified generator lead line; or

23 B. stated in writing that the electric company did not
24 intend to construct the qualified generator lead line.

25 (2) Unless a certificate of public convenience and necessity for the
26 construction is first obtained from the Commission, and the Commission has found
27 that the capacity is necessary to ensure a sufficient supply of electricity to customers
28 in the State, a person may not exercise a right of condemnation in connection with the
29 construction of a generating station.

30 (3) (I) **[Unless] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF**
31 **THIS SUBSECTION, UNLESS** a certificate of public convenience and necessity for the
32 construction is first obtained from the Commission, an electric company may not begin
33 construction of an overhead transmission line that is designed to carry a voltage in
34 excess of 69,000 volts or exercise a right of condemnation with the construction.

1 **(II) ~~THE~~ FOR CONSTRUCTION RELATED TO AN EXISTING**
 2 **OVERHEAD TRANSMISSION LINE, THE COMMISSION MAY WAIVE THE**
 3 **REQUIREMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR GOOD CAUSE.**

4 **(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
 5 **PARAGRAPH, FOR CONSTRUCTION RELATED TO AN EXISTING OVERHEAD**
 6 **TRANSMISSION LINE DESIGNED TO CARRY A VOLTAGE IN EXCESS OF 69,000**
 7 **VOLTS, THE COMMISSION SHALL WAIVE THE REQUIREMENT TO OBTAIN A**
 8 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IF THE COMMISSION**
 9 **FINDS THAT THE CONSTRUCTION DOES NOT:**

10 **1. REQUIRE THE ELECTRIC COMPANY TO OBTAIN**
 11 **NEW REAL PROPERTY OR ADDITIONAL RIGHTS-OF-WAY THROUGH EMINENT**
 12 **DOMAIN; OR**

13 **2. REQUIRE LARGER OR HIGHER STRUCTURES TO**
 14 **ACCOMMODATE:**

15 **A. INCREASED VOLTAGE; OR**

16 **B. LARGER CONDUCTORS.**

17 **(II) 1. FOR CONSTRUCTION RELATED TO AN EXISTING**
 18 **OVERHEAD TRANSMISSION LINE, INCLUDING REPAIRS, THAT IS NECESSARY TO**
 19 **AVOID AN IMMINENT SAFETY HAZARD OR RELIABILITY RISK, AN ELECTRIC**
 20 **COMPANY MAY UNDERTAKE THE NECESSARY CONSTRUCTION.**

21 **2. WITHIN 30 DAYS AFTER CONSTRUCTION IS**
 22 **COMPLETED UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, AN**
 23 **ELECTRIC COMPANY SHALL FILE A REPORT WITH THE COMMISSION**
 24 **DESCRIBING THE WORK THAT WAS COMPLETED.**

25 7-207.1.

26 **(a) This section applies to a person who:**

27 **(1) constructs a generating station:**

28 **(i) designed to provide on-site generated electricity if:**

29 **1. the capacity of the generating station does not exceed**
 30 **70 megawatts; and**

31 **2. the electricity that may be exported for sale from the**
 32 **generating station to the electric system is sold only on the wholesale market pursuant**

1 to an interconnection, operation, and maintenance agreement with the local electric
2 company; or

3 (ii) that produces electricity from wind if:

4 1. the generating station is land-based;

5 2. the capacity of the generating station does not exceed
6 70 megawatts;

7 3. the electricity that may be exported for sale from the
8 generating station to the electric system is sold only on the wholesale market pursuant
9 to an interconnection, operation, and maintenance agreement with the local electric
10 company; [and]

11 4. the Commission provides an opportunity for public
12 comment at a public hearing as provided in subsection (e) of this section; AND

13 5. **THE GENERATING STATION'S WIND TURBINES ARE**
14 **NOT LOCATED WITHIN A DISTANCE FROM THE PATUXENT RIVER NAVAL AIR**
15 **STATION THAT IS DETERMINED BY REGULATIONS ADOPTED BY THE**
16 **COMMISSION IN COORDINATION WITH THE COMMANDER, NAVAL AIR WARFARE**
17 **CENTER AIRCRAFT DIVISION, PROVIDED THAT THE DISTANCE REQUIREMENT**
18 **UNDER THE REGULATION IS:**

19 **A. NOT GREATER THAN IS NECESSARY TO**
20 **ENCOMPASS AN AREA IN WHICH UTILITY SCALE WIND TURBINES COULD CREATE**
21 **DOPPLER RADAR INTERFERENCE FOR MISSIONS AT THE PATUXENT RIVER**
22 **NAVAL AIR STATION;**

23 **B. NOT GREATER THAN 46 MILES, MEASURED FROM**
24 **LOCATION 38.29667N, 76.37668W; AND**

25 **C. SUBJECT TO MODIFICATION IF NECESSARY TO**
26 **REFLECT CHANGES IN MISSIONS OR TECHNOLOGY AT THE PATUXENT RIVER**
27 **NAVAL AIR STATION OR CHANGES IN WIND ENERGY TECHNOLOGY; or**

28 (2) constructs a generating station if:

29 (i) the capacity of the generating station does not exceed 25
30 megawatts;

31 (ii) the electricity that may be exported for sale from the
32 generating station to the electric system is sold only on the wholesale market pursuant

1 to an interconnection, operation, and maintenance agreement with the local electric
2 company; and

3 (iii) at least 10% of the electricity generated at the generating
4 station each year is consumed on-site.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 June 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.